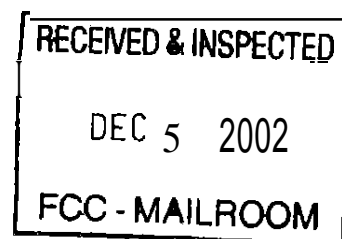


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Foyil Independent School District	)	File No. SLD-267565
Foyil, Oklahoma	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45 ✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: November 26, 2002**

**Released: November 27, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division (Division) has under consideration a Request for Review filed by Foyil Public Schools (Foyil), Foyil, Oklahoma.<sup>1</sup> Foyil seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator), which rejected Foyil's Funding Year 2001 application for discounts under the schools and libraries universal service support mechanism on the grounds that it did not satisfy minimum processing standards.<sup>2</sup> For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its

<sup>1</sup> Letter from Michael McGregor, Foyil Public Schools, to Federal Communications Commission, tiled January 28, 2002 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.<sup>5</sup>

3. Under the Commission's regulations, SLD is authorized to establish program standards for FCC Form 471 applications by schools and libraries seeking to receive discounts for eligible services.<sup>6</sup> Pursuant to this authority, every funding year, SLD establishes and notifies applicants of a "minimum processing standard" to facilitate the efficient review of the thousands of applications requesting funding.<sup>7</sup> In Funding Year 2001, SLD instructions stated that minimum processing standards required applicants to use the "correct, OMB-approved FCC Form 471, with a date of October 2000 in the lower right-hand corner."<sup>8</sup> When an applicant submits an application that does not comply with an item subject to the minimum processing standard, SLD automatically rejects the application and returns it to the applicant.

4. Foyil manually filed a FCC Form 471 with SLD for Funding Year 2001 on January 18, 2001.<sup>9</sup> Although the first page of the application was submitted using the correct form dated October 2000 in the corner, the remainder of the application was submitted on the previous version of the form dated September 1999.<sup>10</sup> On July 26, 2001, SLD issued a letter rejecting the application for failure to satisfy minimum processing standards.<sup>11</sup> SLD stated that "[t]he Form 471 submitted is not the correct OMB-approved FCC Form 471 dated October 2000 in the lower right-hand corner of the form."<sup>12</sup> Foyil appealed to SLD, which affirmed its

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<sup>4</sup> 47 C.F.R. § 54.504(b)(1), (b)(3).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> See 47 C.F.R. § 54.507(c); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and ~~Eighth~~ Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

<sup>7</sup> See, e.g., SLD web site, Form 471 Minimum Processing Standards and Filing Requirements for FY4, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Minimum Processing Standards).

<sup>8</sup> *Id.*

<sup>9</sup> FCC Form 471, Foyil Independent School District 7, dated January 18, 2001 (Foyil Form 471).

<sup>10</sup> *Id.*; see also Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 Form 471).

<sup>11</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Mike McGregor, Foyil Independent School District 7, dated July 26, 2001.

<sup>12</sup> *Id.*

rejection of the application for using the wrong form.<sup>13</sup> Foyil then filed the pending Request for Review.

5. As a preliminary matter, we note that the Wireline Competition Bureau (formerly known as the Common Carrier Bureau) has upheld the minimum processing standard that requires applicants to use the correct form.<sup>14</sup> In the *Fair Lawn Order*, the Bureau stated that FCC Form 471 application and instructions are funding year specific,” and each set of instructions provides item-by-item instructions to the corresponding form. Further, the instructions encourage applicants to reference the SLD website, to obtain guidance material from SLD’s fax-on-demand service, or to contact SLD’s Client Service Bureau for assistance with the application process.<sup>16</sup> Specifically, the website instructions for completing FCC Form 471 for Year 2001 provide that each form must be a “correct OMB-approved FCC Form 471, with a date of October 2000 in the lower right-hand corner.””

6. We also note that the Funding Year 2001 FCC Form 471 required more information than the Funding Year 2000 FCC Form 471. For example, the Funding Year 2001 FCC Form 471 required additional information in Block 5, Item 19 regarding the service end date.<sup>18</sup> In addition, the Funding Year 2001 Form 471 Block 6 contains additional certification language in Item 30 regarding rule compliance and the necessity for technology plans in Items 27c and 26c.<sup>19</sup>

7. Because SLD must review and process thousands of applications each funding year, it would be administratively burdensome if SLD were to accept the Funding Year 2000 Form 471 only to return to the applicant to collect missing information or acquire additional certifications that are required in the Funding Year 2001 Form 471. In this program, using the correct form and providing the correct information is particularly relevant in processing an

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<sup>13</sup> Letter from Michael McGregor, Foyil Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, dated August 1, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Michael McGregor, Foyil Public Schools, dated November 19, 2001.

<sup>14</sup> *Request for Review of the Decision of the Universal Service Administrator by Fair Lawn Board of Education Fair Lawn, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket No. 96-45 and 97-21, Order, 16 FCC Rcd 12901 (Com. Car. Bur. 2001) (*FairLawn Order*).

<sup>15</sup> See generally Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (Funding Year 2000 FCC Form 471), OMB 3060-0806 (September 1999); Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (Funding Year 2001 FCC Form 471), OMB 3060-0806 (October 2000).

<sup>16</sup> *Id*

<sup>17</sup> See Minimum Processing Standards; see also SLD website, What’s New (November 2, 2000), <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

<sup>18</sup> Compare Funding Year 2001 FCC Form 471 at Block 5 with Funding Year 2000 FCC Form 471 at Block 5.


<sup>19</sup> Compare Funding Year 2001 FCC Form 471 at Block 6 with Funding Year 2000 FCC Form 471 at Block 6.

applicant's application. Thus, we find no reason to depart from the Bureau's prior finding that use of the correct form is an appropriate minimum processing standard.

8. In its Request for Review, Foyil asserts that the Funding Year 2000 Form 471 that it used to submit its Funding Year 2001 application was one that Foyil downloaded from SLD's website, and thus, SLD had the wrong form posted on its website.<sup>20</sup> Foyil argues that it should not be punished for using "SLD's wrong form."<sup>21</sup> The record shows, however, that the correct form for Funding Year 2001 was available on SLD's website on November 2, 2000.<sup>22</sup> Thus, Foyil should have submitted the correct form for its application.<sup>23</sup> It is incumbent upon applicants to determine whether their applications are in compliance with program requirements prior to filing. It is administratively appropriate for SLD to require applicants to adhere to applicable program rules and application requirements.<sup>24</sup> Because applications may change from year to year, we find that applicants bear the responsibility of determining whether or not the complete and correct form is being used. We conclude that Foyil should have determined that it was using the wrong application.

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Foyil Public Schools, Foyil, Oklahoma, on January 28, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>20</sup> Request for Review at 1

<sup>21</sup> *Id.* at 3

<sup>22</sup> See SLD website, *What's New* (November 2, 2000), <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>. The Funding Year 2001 application window opened on November 6, 2000. *Id.*

<sup>23</sup> See Foyil Form 471

<sup>24</sup> See *generally* Minimum Processing Standards.